

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Kirk Grier,**

Petitioner-Appellant,

v.

**Polk County Board of Review,**

Respondent-Appellee.

**ORDER**

**Docket No. 09-77-1106  
Parcel No. 090/02127-007-000**

On April 2, 2010, the above captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant, Kirk Grier, was self-represented and submitted evidence in support of his petition. The Polk County Board of Review designated Assistant County Attorney Ralph Marasco as its legal representation, and submitted evidence in support of its decision. The Appeal Board having reviewed the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

Kirk Grier is the owner of a residentially classified, townhouse-style condominium located in Des Moines, Iowa. The property is a two-story, frame end-unit built in 2001. The property has two common walls and features 1332 square feet of total living area, a slab foundation, a two-car attached garage and an open front porch.

Mr. Grier protested to the Polk County Board of Review regarding the 2009 assessment for his parcel. The protest was based on the following grounds: 1) The property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b); and 2) There has been a downward

change in the value since the last assessment under sections 441.37(1) and 441.35(3). The Board of Review granted relief, reducing the assessment of \$135,000 to a total assessment of \$124,700, allocated \$20,000 to the land value and \$104,700 to improvement value.

Mr. Grier then appealed to this Board, re-asserting his original grounds. In a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Accordingly, we do not consider downward change as a separate claim and consider only the claim of over-assessment.

To both Boards, Grier offered four properties located within his development which he considers as comparable and demonstrating market value. The unit numbers of the four properties are: 103, 303, 404 and 603. All are end-units similar to the subject, and all sold after the January 1, 2009, assessment date. Therefore, we do not believe these sales represent market value as of January 1, 2009.

As support for his position that these sales did represent market value as of January 1, 2009, Grier offered a fifth unit as a comparable, to this Board. This property's unit number is 202 and is situated next door to, and attached to Grier's unit. Unit 202 is smaller, features only a one-car garage and is a middle unit which has three common walls versus two. However, Grier contends that it is still a reasonable comparable to his property.

Unit 202 sold in December 2008. However, the property had two transfers in roughly six months. The first transfer was between a son and mother. Transfers between family members are considered to be abnormal sales according to the Iowa Department of Revenue standards. After this recorded transfer, the new owner, Kathleen McCoy apparently deeded transfer to the Memorial Foundation of Allen Hospital. It is unclear if the Memorial Foundation of Allen Hospital is an exempt organization. If so, it would also be considered an abnormal sale. This entity then resold the property

for \$105,000 or \$30,000 *less than* what McCoy had recently paid for the property. Mr. Grier asserts that this demonstrates a downward trend in the last half of 2009. Because the sales are considered abnormal or questionable at best, we disagree that this conclusion can be reached.

The Board of Review engaged Amy Larson, a state certified residential appraiser, to value the subject property as of January 1, 2009. Ms. Larson included four comparables, three of which are located within the subject's development and one located in a nearby competing development. Her overall adjusted range of value is \$125,900 to \$139,900. The sales located in the subject development had an adjusted range of value of \$130,000 to \$139,900. From within the overall range, Ms. Larson reconciled a value of \$130,000, taking into consideration several listings in the immediate development within her final opinion.

Mr. Grier was concerned that Ms. Larson rated his property as being in "good" condition. He offered several photographs of the subject property, demonstrating what he considers as evidence of disrepair or representing a property in "average" condition. These photos were admitted into the record and include some examples of wear and tear on flooring and trim. Ms. Larson indicated that she did not notice these specific deficiencies and that overall, the subject property was typical for its age; typical for other properties she has inspected in this development; and in her opinion, would be considered as "good" condition by the market.

The Board of Review recognizes that Mr. Grier has documented some persuasive evidence for a possible appeal in 2010, but contends he has failed to demonstrate that the subject's value, as of January 1, 2009, is greater than market value. We agree.

Based upon the foregoing, the Appeal Board finds that insufficient evidence has been submitted by Mr. Grier to support his claim that his property is assessed at greater than market value.



### *Conclusions of Law*

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Mr. Grier fails to provide this Board with evidence that the current assessed valuation is more than authorized by law (market value).

In the opinion of the Appeal Board, the evidence does not support the claim that the property is assessed for more than the value authorized by Iowa Code section 441.21. We therefore affirm the January 1, 2009, assessment of the property located at 500 North Valley Drive, Unit 201, Des Moines, Iowa, as determined by the Polk County Board of Review.

THE APPEAL BOARD ORDERS the assessment of 500 North Valley Drive, Unit 201, Des Moines, Iowa, as of January 1, 2009, set by the Polk County Board of Review, is affirmed.

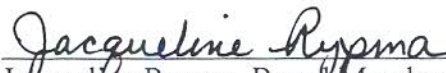
Dated this 26 day of April, 2010



Karen Oberman, Board Chair



Richard Stradley, Board Member



Jacqueline Rypma, Board Member

Cc:

Kirk Grier  
500 North Valley Drive, #201  
Des Moines, Iowa 50312  
APPELLANT

Ralph Marasco  
Assistant Polk County Attorney  
111 Court Avenue, Room 195  
Des Moines, Iowa 50309  
ATTORNEY FOR APPELLEE

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>4-26</u> 2010	
By: <input checked="" type="checkbox"/> U.S. Mail	<input type="checkbox"/> FAX
<input type="checkbox"/> Hand Delivered	<input type="checkbox"/> Overnight Courier
<input type="checkbox"/> Certified Mail	<input type="checkbox"/> Other
Signature: 	